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27 UNITED STATES OF AMERICA

28 UNITED STATES DISTRICT COURT

1 FOR THE CENTRAL DISTRICT OF CALIFORNIA

2 UNITED STATES OF AMERICA,

3 No. CR 5:23-00021-JGB

4 Plaintiff,

5 v.
6 STIPULATION AND JOINT REQUEST FOR
7 A PROTECTIVE ORDER REGARDING
8 DISCOVERY CONTAINING PERSONAL
9 IDENTIFYING INFORMATION;
10 [PROPOSED] ORDER

11 JASON EDWARD THOMAS CARDIFF,

12 Defendant.

13 Plaintiff, United States of America, by and through its counsel
14 of record, the United States Attorney for the Central District of
15 California and Assistant United States Attorney VALERIE L.
16 MAKAREWICZ and the Department of Justice, Consumer Protection Branch
17 and Trial Attorney MANU J. SEBASTIAN, and defendant JASON EDWARD

1 THOMAS CARDIFF ("defendant"), by and through his counsel of record,
2 STEPHEN G. LARSON (collectively the "parties"), for the reasons set
3 forth below, request that the Court enter the proposed protective
4 order (the "Protective Order") governing the use and dissemination
5 of personal identifying information ("PII") of real persons pursuant
6 to Federal Rule of Criminal Procedure Rule 16(d)(1).

7 Introduction and Grounds for Protective Order

8 1. Defendant is charged in this matter with violations of 18
9 U.S.C. § 1029(a)(5): access device fraud; 18 U.S.C. § 1028A(a)(1):
10 aggravated identity theft; and 18 U.S.C. § 1512(b)(2)(B): witness
11 tampering. Defendant is released on bond pending trial.

12 2. A protective order is necessary because the government
13 intends to produce to the defense materials containing third
14 parties' PII. The government believes that disclosure of this
15 information without limitation risks the privacy and security of the
16 information's legitimate owners. Because the government has an
17 ongoing obligation to protect third parties' PII, the government
18 cannot produce to defendant an unredacted set of discovery
19 containing this information without the Court entering the
20 Protective Order. Moreover, PII makes up a significant part of the
21 discovery in this case and such information itself, in many
22 instances, has evidentiary value. If the government were to attempt
23 to redact all this information in strict compliance with Federal
24 Rule of Criminal Procedure 49.1, the Central District of
25 California's Local Rules regarding redaction, and the Privacy Policy
26 of the United States Judicial Conference, the defense would receive
27 a set of discovery that would be highly confusing and difficult to
28 understand, and it would be challenging for defense counsel to

1 adequately evaluate the case, provide advice to defendant, or
2 prepare for trial.

3 3. The purpose of the Protective Order is to (a) allow the
4 government to comply with its discovery obligations while protecting
5 this sensitive information from unauthorized dissemination, and
6 (b) provide the defense with sufficient information to adequately
7 represent defendant.

8 Definitions

9 4. The parties agree to the following definitions:

10 a. "PII Materials" includes any information that can be
11 used to identify a person, including a name, address, date of birth,
12 Social Security number, driver's license number, telephone number,
13 account number, email address, or personal identification number.]

14 b. "Confidential Information" refers to any document or
15 information containing PII Materials that the government produces to
16 the defense pursuant to this Protective Order and any copies
17 thereof.

18 c. "Defense Team" includes (1) defendant's counsel of
19 record ("defense counsel"); (2) other attorneys at defense counsel's
20 law firm who may be consulted regarding case strategy in this case;
21 (3) attorney Stephen Cochell of the Cochell Law Firm; (4) defense
22 investigators who are assisting defense counsel with this case;
23 (5) retained experts or potential experts; and (6) paralegals, legal
24 assistants, and other support staff to defense counsel who are
25 providing assistance on this case. The Defense Team does not
26 include defendant, defendant's family members, or any other
27 associates of defendant.

28 Terms of the Protective Order

1 5. The parties jointly request the Court enter the Protective
2 Order, which will permit the government to produce Confidential
3 Information in a manner that preserves the privacy and security of
4 third parties. The parties agree that the following conditions in
5 the Protective Order will serve these interests:

6 a. The government is authorized to provide defense
7 counsel with Confidential Information marked with the following
8 legend: "CONFIDENTIAL INFORMATION -- CONTENTS SUBJECT TO PROTECTIVE
9 ORDER." The government may put that legend on the digital medium
10 (such as DVD or hard drive) or simply label a digital folder on the
11 digital medium to cover the content of that digital folder. The
12 government may also redact any PII contained in the production of
13 Confidential Information.

14 b. If defendant objects to a designation that material
15 contains Confidential Information, the parties shall meet and
16 confer. If the parties cannot reach an agreement regarding
17 defendant's objection, defendant may apply to the Court to have the
18 designation removed.

19 c. Defendant and the Defense Team agree to use the
20 Confidential Information solely to prepare for any pretrial motions,
21 plea negotiations, trial, and sentencing hearing in this case, as
22 well as any appellate and post-conviction proceedings related to
23 this case.

24 d. The Defense Team shall not permit anyone other than
25 the Defense Team to have possession of Confidential Information,
26 including defendant, while outside the presence of the Defense Team.

1 e. At no time, under no circumstance, will any
2 Confidential Information be left in the possession, custody, or
3 control of defendant, regardless of defendant's custody status.

4 f. Defendant may review PII Materials only in the
5 presence of a member of the Defense Team, who shall ensure that
6 defendant is never left alone with any PII Materials. At the
7 conclusion of any meeting with defendant at which defendant is
8 permitted to view PII Materials, defendant must return any PII
9 Materials to the Defense Team, and the member of the Defense Team
10 present shall take all such materials with him or her. Defendant
11 may not take any PII Materials out of the room in which defendant is
12 meeting with the Defense Team.

13 g. Defendant may see and review Confidential Information
14 as permitted by this Protective Order, but defendant may not copy,
15 keep, maintain, or otherwise possess any Confidential Information in
16 this case at any time. Defendant also may not write down or
17 memorialize any data or information contained in the Confidential
18 Information.

19 h. The Defense Team may review Confidential Information
20 with a witness or potential witness in this case, including
21 defendant. A member of the Defense Team must be present if PII
22 Materials are being shown to a witness or potential witness. Before
23 being shown any portion of Confidential Information, however, any
24 witness or potential witness must be informed of, and agree in
25 writing to be bound by, the requirements of the Protective Order.
26 No member of the Defense Team shall permit a witness or potential
27 witness to retain Confidential Information or any notes generated
28 from Confidential Information.

1 i. The Defense Team shall maintain Confidential
2 Information safely and securely, and shall exercise reasonable care
3 in ensuring the confidentiality of those materials by (1) not
4 permitting anyone other than members of the Defense Team, defendant,
5 witnesses, and potential witnesses, as restricted above, to see
6 Confidential Information; (2) not divulging to anyone other than
7 members of the Defense Team, defendant, witnesses, and potential
8 witnesses, the contents of Confidential Information; and (3) not
9 permitting Confidential Information to be outside the Defense Team's
10 offices, homes, vehicles, or personal presence.

11 j. To the extent that defendant, the Defense Team,
12 witnesses, or potential witnesses create notes that contain, in
13 whole or in part, Confidential Information, or to the extent that
14 copies are made for authorized use by members of the Defense Team,
15 such notes, copies, or reproductions become Confidential Information
16 subject to the Protective Order and must be handled in accordance
17 with the terms of the Protective Order.

18 k. The Defense Team shall use Confidential Information
19 only for the litigation of the instant criminal case and for no
20 other purpose. Litigation of this matter includes any appeal filed
21 by defendant and any motion filed by defendant pursuant to 28 U.S.C.
22 § 2255 pertaining to the instant criminal case. In the event that a
23 party needs to file Confidential Information with the Court or
24 divulge the contents of Confidential Information in court filings,
25 the filing should be made under seal. If the Court rejects the
request to file such information under seal, the party seeking to
file such information publicly shall provide advance written notice
to the other party to afford such party an opportunity to object or

1 otherwise respond to such intention. If the other party does not
2 object to the proposed filing, the party seeking to file such
3 information shall redact any PII Materials make all reasonable
4 attempts to limit the divulging of PII Materials.

5 l. The parties agree that any Confidential Information
6 inadvertently produced in the course of discovery prior to entry of
7 the Protective Order shall be subject to the terms of the Protective
8 Order. If Confidential Information was inadvertently produced prior
9 to entry of the Protective Order without being marked "CONFIDENTIAL
10 INFORMATION -- CONTENTS SUBJECT TO PROTECTIVE ORDER," the government
11 shall reproduce the material with the correct designation and notify
12 defense counsel of the error. The Defense Team shall take immediate
13 steps to destroy the unmarked material, including any copies.

14 m. Confidential Information shall not be used by the
15 defendant or Defense Team, in any way, in any other matter, absent
16 an order by this Court. All materials designated subject to the
17 Protective Order maintained in the Defense Team's files shall remain
18 subject to the Protective Order unless and until such order is
19 modified by this Court. Within 30 days of the conclusion of
20 appellate and post-conviction proceedings, defense counsel shall
21 return all PII Materials certify that such materials have been
22 destroyed, or certify that such materials are being kept pursuant to
23 the California Business and Professions Code and the California
24 Rules of Professional Conduct.

25 n. In the event that there is a substitution of counsel
26 prior to when such documents must be returned, new defense counsel
27 must be informed of, and agree in writing to be bound by, the
28 requirements of the Protective Order before the undersigned defense

1 counsel transfers any Confidential Information to the new defense
2 counsel. New defense counsel's written agreement to be bound by the
3 terms of the Protective Order must be returned to the Assistant U.S.
4 Attorney assigned to the case. New defense counsel then will become
5 the Defense Team's custodian of materials designated subject to the
6 Protective Order and shall then become responsible, upon the
7 conclusion of appellate and post-conviction proceedings, for
8 (1) returning to the government, certifying the destruction of, or
9 retaining pursuant to the California Business and Professions Code
10 and the California Rules of Professional Conduct all PII Materials.

11 o. Defense counsel agrees to advise defendant and all
12 members of the Defense Team of their obligations under the
13 Protective Order and ensure their agreement to follow the Protective
14 Order, prior to providing defendant and members of the Defense Team
15 with access to any materials subject to the Protective Order.

16 p. Defense Counsel has conferred with defendant
17 regarding this stipulation and the proposed order thereon, and
18 defendant agrees to the terms of the proposed order.

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1 q. Accordingly, the parties have agreed to request that
2 the Court enter a protective order in the form submitted herewith.

3 IT IS SO STIPULATED.

4 DATED: December 13, 2023

E. MARTIN ESTRADA
United States Attorney

6 MACK E. JENKINS
7 Assistant United States Attorney
7 Chief, Criminal Division

8 /s/ Valerie L. Makarewicz

9 MANU J. SEBASTIAN
10 Trial Attorney
10 VALERIE L. MAKAREWICZ
11 Assistant United States Attorney

12 Attorneys for Plaintiff
13 UNITED STATES OF AMERICA

14 DATED: December 13, 2023

15 /s/ Stephen G. Larson (via e-
15 mailed authorization
16 STEPHEN G. LARSON
16 Attorney for Defendant
17 JASON EDWARD THOMAS CARDIFF